

**MINUTES**  
**SCOTTSDALE CITY COUNCIL**  
**CITY COUNCIL MEETING**  
**Tuesday, June 17, 2003**

**The Kiva**  
**City Hall**  
**Scottsdale, Arizona**

**MINUTES**  
**SCOTTSDALE CITY COUNCIL**  
**CITY COUNCIL MEETING**  
**Tuesday, June 17, 2003**

**CALL TO ORDER (IN CITY HALL KIVA FORUM)**

Mayor Manross called to order the Regular Meeting of the Scottsdale City Council on Tuesday, June 17, 2003 in the Kiva, City Hall, at 5:07 P.M.

**ROLL CALL**

Present: Mayor Mary Manross  
Vice Mayor Ned O'Hearn  
Council Members David Ortega, Tom Silverman, Robert Littlefield, Wayne Ecton,  
and Cynthia Lukas

Also Present: City Manager Jan Dolan  
Deputy City Attorney Donna Bronski  
Deputy City Clerk Carolyn Jagger

**Public Comment**

**Jeff Schneidman**, 7303 E. Earll Drive, requested that the vote on the proposed Los Arcos agreement be delayed until there is a formal legal opinion on Vice Mayor O'Hearn's alleged conflict of interest.

Deputy City Attorney Bronski explained that there was an investigation and no conflict of interest was found. She stated that the legal office would ensure that a formal attorney's opinion would be forwarded to the City Clerk's Office for their file.

**Hilary Glasser**, 7117 Third Avenue, stated opposition to the proposed subsidy for the Los Arcos project.

**Norwood Sisson**, 7431 E. Portland, urged Council to review the city's policy of only keeping certain records 45 days.

**Elliott Glasser**, 7117 Third Avenue, stated his opinion that the proposed Los Arcos project is a fraud.

**Jodi Paulsen**, 8630 E. Dianna Drive, urged various Council members to uphold their campaign promises when voting on the proposed Los Arcos project.

**Minutes**

**SPECIAL MEETINGS**

May 19, 2003  
June 2, 2003  
June 3, 2003

**REGULAR MEETINGS**

May 19, 2003  
June 2, 2003  
June 3, 2003

**EXECUTIVE SESSIONS**

May 19, 2003

COUNCILMAN ORTEGA MOVED TO APPROVE THE SPECIAL MEETING MINUTES OF MAY 19, 2003, JUNE 2, 2003, AND JUNE 3, 2003; THE REGULAR MEETING MINUTES OF MAY 19, 2003, JUNE 2, 2003, AND JUNE 3, 2003; AND THE EXECUTIVE SESSION MINUTES FROM MAY 19, 2003. COUNCILMAN SILVERMAN SECONDED THE MOTION WHICH CARRIED 7/0.

# Consent Agenda

## 1. Peter Piper Pizza Liquor License Extension of Premises

**Request:** To consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a permanent extension of premises that will add a patio to an existing establishment operating with a series 07 (beer/wine bar) liquor license.

**Location:** 7607 E. McDowell Rd.

**Reference:** 16-EX-2003

**Staff Contact(s):** Jeff Fisher, Plan Review and Permit Services Director, 480-312-7619,  
[jefisher@ScottsdaleAz.gov](mailto:jefisher@ScottsdaleAz.gov)

## 2. Sunflower Market Liquor License

**Request:** Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a new series 10 (beer/wine store) State liquor license for the former ABCO, which previously operated with a series 10 (beer/wine store) liquor license.

**Location:** 4402 N Miller Rd

**Reference:** 31-LL-2003

**Staff Contact(s):** Jeff Fisher, Plan and Permit Services Director, 480-312-7619,  
[jefisher@ScottsdaleAZ.gov](mailto:jefisher@ScottsdaleAZ.gov)

## 3. James - Hotel Scottsdale Liquor License

**Request:** Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a series 11 (hotel-motel) State liquor license for the former Old Town Hotel, which also operated with a series 11 (hotel/motel) liquor license.

**Location:** 7353 E Indian School Rd

**Reference:** 32-LL-2003

**Staff Contact(s):** Jeff Fisher, Plan and Permit Services Director, 480-312-7619,  
[jefisher@ScottsdaleAZ.gov](mailto:jefisher@ScottsdaleAZ.gov)

## 4. Parcel W @ Troon North

**Request:** Approve 16 residential lots on an 18-acre parcel.

**Location:** Troon North, 108th Place, west of Alma School Road

**Reference:** 22-PP-2002

**Staff Contact(s):** Keith Niederer Associate Planner 480-312-4211,  
[kniederer@ScottsdaleAZ.gov](mailto:kniederer@ScottsdaleAZ.gov)

## 5. Estancia Parcel G

**Request:** Approve 3 residential lots on a 9.83-acre parcel.

**Location:** 9801 E Dynamite Blvd

**Reference:** 29-PP-1999

**Staff Contact(s):** Al Ward, Senior Planner, 480-312-7067, [award@ScottsdaleAZ.gov](mailto:award@ScottsdaleAZ.gov)

## 6. Park Site at DC Ranch Planning Unit 1

**Request:** Master Site Plan approval for a future public park at DC Ranch on a 12.8 +/- acre parcel located near the southeast corner of Pima Road and Union Hills Road with Open Space and Planned Community District (OS/PCD) zoning.

**Location:** Parcel 1.4 - Southeast of the intersection of Pima Rd & Union Hills Dr

**Reference:** 1-MP-2003

**Staff Contact(s):** Tim Curtis, Project Coordination Manager, 480-312-4210, [tcurtis@ScottsdaleAZ.gov](mailto:tcurtis@ScottsdaleAZ.gov)

**7. Celebration Of Fine Art Conditional Use Permit**

**Request:** Approve a conditional use permit extension for a Seasonal Arts Festival with stipulation modifications on a 7.47 +/- acre parcel located at the southeast corner of Scottsdale Road and Union Hills Drive with Planned Regional Center, Planned Community District (PRC-PCD) zoning.

**Location:** E Union Hills Dr/N Scottsdale Rd (Southeast Corner)

**Reference:** 32-UP-2000#2

**Staff Contact(s):** Al Ward, Senior Planner, 480-312-7067, [award@ScottsdaleAZ.gov](mailto:award@ScottsdaleAZ.gov)

**8. LA Fitness Conditional Use Permit**

**Request:** Approve a conditional use permit for a health studio on a 5.5 +/- acre parcel located at 1900 N Scottsdale Road with Highway Commercial (C-3) zoning.

**Location:** 1900 N Scottsdale Rd

**Reference:** 5-UP-2003

**Staff Contact(s):** Tim Curtis, Project Coordination Manager, 480-312-4210, [tcurtis@ScottsdaleAZ.gov](mailto:tcurtis@ScottsdaleAZ.gov)

Councilman Ortega pointed out that this project involves a rather large private investment, although it is located within a redevelopment area. He stressed that the project is being completed without the assistance of a subsidy from the city. He commended the applicant for their great project.

**9. Code Adoptions/Updates**

**Request:** Adopt Ordinance 3505, adopting the 2003 International Building Code and International Residential Code; Ordinance 3506, adopting the 2003 International Mechanical Code; Ordinance 3507, adopting the 2003 International Fire Code and Resolution 6310, 6311, 6312, 6313, 6309 and 6325, declaring the above Ordinances as a public record.

**Location:** City-wide

**Staff Contact(s):** David Potter, Building Official, 480-312-2532, [dpotter@scottsdaleaz.gov](mailto:dpotter@scottsdaleaz.gov)

**10. Scottsdale Road - Bell to Deer Valley Annexation**

**Request:** Adopt Ordinance No. 3511 for Annexation of a County Right-of-Way.

**Location:** Scottsdale Road - Bell to Deer Valley

**Reference:** 1-AN-2003

**Staff Contact(s):** Don Hadder, Principal Planner, 480-312-2352, [dhadder@ScottsdaleAZ.gov](mailto:dhadder@ScottsdaleAZ.gov)

**11. Removed from the consent agenda for separate discussion. See page 5**

**12. Removed from the consent agenda for separate discussion. See page 6**

**13. Revocable License Agreement with the Scottsdale Rose Society, Inc.**

**Request:** Adopt Resolution No. 6299 authorizing City Council to approve Revocable License Agreement No. 2003-046-COS with the Scottsdale Rose Society, Inc., to install, maintain and repair the Rose Garden in Downtown Scottsdale.

**Related Policies, References:** On December 14, 1992, the Mayor and City Council adopted Resolution No. 3712 authorizing the execution of Easement Agreement No. 920139 with the Scottsdale Rose Society for the creation and maintenance of a rose garden in Scottsdale downtown. The easement agreement expired December 31, 2002. On January 10, 2003, the City of Scottsdale and Scottsdale Rose Society entered into a short-term (180 days) revocable license agreement to continue existing arrangements for the Rose Garden until July 9, 2003, in accordance with Section 2-221(c) of the Scottsdale Revised Code.

**Staff Contact(s):** Robin Rodgers, Asset Management Specialist, 480-312-2522, [rrogers@ScottsdaleAZ.gov](mailto:rrogers@ScottsdaleAZ.gov); Sahler Hornbeck, Downtown Liaison, 480-312-2394, [shornbeck@ScottsdaleAZ.gov](mailto:shornbeck@ScottsdaleAZ.gov)

COUNCILMAN ORETGA MOVED TO APPROVE CONSENT ITEMS 1-10 AND 13.  
COUNCILMAN ECTON SECONDED THE MOTION WHICH CARRIED 7/0.

## **Items removed from the Consent Agenda for separate discussion**

### **11. Authorize IGA**

**Request:** Consider approval of Intergovernmental Agreement #2003-112-COS, between the City of Scottsdale and other legal entities that invested monies in NCFE through the LGIP for a joint legal action, including the retention and direction of outside counsel, arising out of the NCFE bankruptcy.

**Related Policies, References:** Resolution No. 6308

**Staff Contact(s):** Sherry R. Scott, Assistant City Attorney, 480-312-2405, [sscott@ScottsdaleAZ.gov](mailto:sscott@ScottsdaleAZ.gov)

Vice Mayor O'Hearn questioned what other entities would be participating in the legal action. He wondered if there are any cities which lost money and are not participating in the action. He also questioned the likelihood of a positive outcome and, if successful, where the money would come from.

Ms. Scott explained that the IGAs are in the process of being passed by various entities including the City of Chandler and the City of Mesa. Various counties have also shown interest in participating in the action. She noted that Pima County already passed their IGA. She stressed that the actual number of entities participating is questionable since IGAs must pass first. She explained that the cost of the litigation would be "fronted" by the larger participants and reimbursed once the litigation is settled. She stated that any money recovered would be paid by third party fiduciaries. She clarified that there were a number of firms that were responsible to "watchdog" the investment firm to ensure that they had the funds necessary to backup the bonds that were sold to the LGIP. The outside counsel the city is consulting with is very confident about the case. It is her opinion that, at the very least, costs associated with the case would be recovered.

Ms. Dolan clarified that the city placed funds in a state pooled fund and the state invested in this company. She noted that it is likely that some of the smaller entities won't participate in this endeavor since they don't have the resources to do so.

Mayor Manross opened public testimony.

**Norwood Sisson**, 7431 E. Portland, explained that the state treasurer does indeed invest money for local governments who have money they wish to invest. In this case, the state invested \$131 million in bonds from a company, which went bankrupt. Of that amount, \$7.8 million belonged to the City of Scottsdale. He questioned how the money has been treated in the current budget.

Mayor Manross closed public testimony.

Since the city's Finance Director was not in attendance, Ms. Dolan explained that the information would be forwarded to Mr. Sisson.

COUNCILMAN O'HEARN MOVED TO APPROVE INTERGOVERNMENTAL AGREEMENT #2003-112-COS, BETWEEN THE CITY OF SCOTTSDALE AND OTHER LEGAL ENTITIES THAT INVESTED MONIES IN NCFE THROUGH THE LGIP FOR A JOINT LEGAL ACTION, INCLUDING THE RETENTION AND DIRECTION OF OUTSIDE COUNSEL, ARISING OUT OF THE NCFE BANKRUPTCY. COUNCILWOMAN LUKAS SECONDED THE MOTION WHICH CARRIED 7/0.

**12. Contract for Legal Services in connection with City of Scottsdale v. condemnation of land at 104 Street and Bell (owned by Toll Brothers Homes).**

**Request:** Adopt Resolution No. 6235 authorizing the Mayor to execute Contract No. 2003-010-COS, an outside counsel contract in a maximum amount of Fifty Thousand Dollars (\$50,000.00) with the law firm of GRAHAM & ASSOCIATES, LTD. for legal services regarding representation of the City of Scottsdale in the condemnation and litigation of an eminent domain action brought to acquire real property for McDowell Sonoran Preserve gateway.

**Related Policies, References:** Resolution No. 6235

**Staff Contact(s):** Janis Villalpando, Assistant City Attorney,  
[jvillalpando@ci.scottsdale.az.us](mailto:jvillalpando@ci.scottsdale.az.us), (480) 312-2405

Vice Mayor O'Hearn questioned the verbiage in this action item and requested clarification. Ms. Dolan clarified that the city is not in the process of taking condemnation action; however, the attorney associated with Graham & Associates has been providing the city with legal counsel in the negotiations. The resolution would simply authorize staff to compensate the attorney for the work being done related to the negotiations. Although not anticipated, it would take additional Council action before any condemnation action would begin.

Mayor Manross opened public testimony.

**Lyle Wurtz**, 6510 E. Palm Lane, questioned the expensing of costs. He asked for verification that outside legal fees for matters relating to the preserve are being taken from dedicated sales preservation tax. He questioned if the money is being advanced from the general fund, if interest is being credited. He also wanted to know if the city is allocating costs for city staff back to the preserve. He expressed a desire to see these records.

Mayor Manross closed public testimony.

Ms. Dolan noted that staff would provide a full report to Council and Mr. Wurtz responding to his questions.

Councilman Ortega requested clarification on the verbiage in the resolution indicating the amount of acreage the city is interested in acquiring. As it currently reads, it indicates that the city is interested in the entire 800 acres, which is not the case.

Ms. Dolan stated that the portion of the resolution should read “*in connection with the condemnation of a portion of 800 acres.*”

COUNCILMAN ORTEGA MOVED TO ADOPT RESOLUTION NO. 6235, WITH THE MINOR CHANGE IN VERBIAGE AS INDICATED ABOVE, AUTHORIZING THE MAYOR TO EXECUTE CONTRACT NO. 2003-010-COS, AN OUTSIDE COUNSEL CONTRACT IN A MAXIMUM AMOUNT OF FIFTY THOUSAND DOLLARS (\$50,000.00) WITH THE LAW FIRM OF GRAHAM & ASSOCIATES, LTD. FOR LEGAL SERVICES REGARDING REPRESENTATION OF THE CITY OF SCOTTSDALE IN THE CONDEMNATION AND LITIGATION OF AN EMINENT DOMAIN ACTION BROUGHT TO ACQUIRE REAL PROPERTY FOR MCDOWELL SONORAN PRESERVE GATEWAY. COUNCILMAN ECTON SECONDED THE MOTION WHICH CARRIED 7/0.

## Regular Agenda

### 14. Sign Ordinance Text Amendment

**Request:**

1. Adopt Ordinance No. 3515, approving an update to Ordinance No. 455 (Zoning Ordinance) amending Article VIII, Sign Requirements.
2. Adopt Resolution No. 6319 declaring the above text amendment a public record.

**Location:** City-wide

**Reference:** 7-TA-2002

**Staff Contact(s):** Jeff Fisher, Plan and Permit Services Director, 480-312-7619, [jefisher@ScottsdaleAZ.gov](mailto:jefisher@ScottsdaleAZ.gov)

Kroy Ekblaw introduced the item for Council’s consideration with a brief slide presentation, which has been outlined below.

### Discussion of Proposed Sign Ordinance Amendments 7-TA-2002

#### History of the Ordinance

- Scottsdale ordinances have been historically oriented to achieve quiet signage
  - no new billboards
  - neon sign regulations
  - design review for multi tenant projects.
- Last Ordinance revision occurred in 1991

The age of the current **ordinance**, coupled with the evolution of businesses and their advertising and has raised recent questions from businesses, citizens and the City Council

#### Summary of Proposed Changes

- User Friendly – clarity & graphics
- Flexibility – no increase in size
- Development Review Board design aesthetics
- Community sign district changes result in a minor increase in total signage

- Medium size freestanding alternative
- Multiple tenant names on signs
- Temporary Signs – reduce clutter in the right-of-way

**Issue:**

- Complex ordinance
- Difficult to navigate

**Proposal:**

- Add table of contents
- Add graphics to clarify definitions

### **User-Friendly – Special Events**

**Issue:**

- Limited flexibility for community based signature events to use more than 2 of the 5 banner locations

**Proposal:**

- Provide the opportunity for community based signature events to request utilization of more than 2 of the 5 banner locations
- Remove the limitation that vertical & horizontal banners for the same event use the same language
- Consistent appeal process

### **Flexibility**

**Issue:**

- Current ordinance does not reflect evolving business needs

**Proposal:**

- There will be no increases in total square footage of signage allowed, with the exception of Community Sign Districts
- Additional flexibility is proposed in the following areas:
  - Development Review Board
  - New Sign Type
  - Tenant Names
  - Auto Dealers

### **Flexibility- Design Review Board**

**Issue:**

- Ordinance is inflexible regarding sign location, variances have been required

**Proposal:**

- Additional flexibility is desired to:
  - Provide relief from the strict application of the sign code
  - Achieve enhanced aesthetics and balance

**Issue:**

Design of freestanding signs are limited by current ordinance



**Proposal:**

- Additional flexibility is desired to:
  - Provide relief from the strict application of the sign code
  - Achieve enhanced aesthetics and balance
- 8-12 ft. mid-size monument sign would be permitted as an option to a tower sign
- Locations would be limited to:
  - Hotels - 101+ rooms
  - Multiple-tenant commercial buildings - 30,000+ sq ft
  - Medical facilities - 100,000+ sq ft

**Flexibility - New Sign Type**

**Issue:**

- Ordinance currently only allows two types of freestanding signs

**Proposal:**

- Provide alternative

- 8-12 ft. mid-size monument sign would be permitted as an option to a tower sign
- Locations would be limited to:
  - Hotels - 101+ rooms
  - Multiple-tenant commercial buildings - 30,000+ sq ft
  - Medical facilities - 100,000+ sq ft

**Planning Commission Stipulation #1**

New Sign Type –

Flexibility for centers over 100,000 sq ft

**Flexibility - Tenant Names**

**Issue:**

- Currently, tenant names are not allowed on any free-standing signs for multi-tenant centers

**Proposal:**

- Proposed amendment will allow up to 3 tenant names on mid-size & tower signs

**Flexibility – Auto Dealers**

**Issue:**

- Ordinance limits manufacturer name/ logo to one sign
- The auto sales industry has evolved into multi-brand dealerships and Economic Vitality has verified that the industry requires separate brand identification.

**Proposal:**

- Allow auto dealers up to three freestanding monument signs subject to the following criteria:
  - 24 sq ft maximum sign area located in landscaped setting
  - 100 ft separation between signs
  - Maximum sign height/area remains unchanged
  - Signs are included in total sign budget for site

### **Temporary Signs**

Issue:

- Clutter in the Right-of-Way
- Consistent Enforceability

Proposal:

- Categorize temporary signs into two types:
  - Semi-Permanent – Allowed on private property
  - Temporary – Allowed in the right-of-way

### **Semi-Permanent Signs**

- Placement
  - 16 sq ft signs may be placed behind the right-of-way
  - Up to 32 sq ft signs may be placed behind the dedicated scenic corridor
- Made of more durable, though not permanent, materials
- 180+ day duration (subject to renewal)
- Allowed only on private property
- Example: Off-site development signs

### **Temporary Signs**

- Temporary Signs will be reduced in size by 67%
- Current Size - 48 sq. ft. max
- Proposed size - 16 sq. ft.
- Signs made from materials that deteriorate
- 120-day duration
- Allowed in the right-of-way
- Example: Political signs

### **Planning Commission Stipulations #2 & #3**

- Stipulation #2 – Applicant required to post a bond for upkeep and removal. (Staff is very uncomfortable with this stipulation due to the costs to implement and enforce this option – staff recommendation – Not to approve this stipulation)
- Stipulation #3 – All temporary signs prohibited in scenic corridors and ROW adjacent to scenic corridors. (Again, staff is uncomfortable with this stipulation since it would raise a concern of inequity within the city. – Staff's recommendation is Not to approve this stipulation.)

### **Planning Commission Stipulation #4**

- Stipulation #4 – Temporary signs supporting the same issue require 100 ft separation (To be consistent, the ordinance would have to be written to require 100' separate between ANY signs. – Staff's recommendation is Not to approve this stipulation.)

### **Community Involvement**

- Public Hearings
  - City Council Study Session: February 10, 2003
  - Planning Commission: May 14, 2003
- Open Houses
  - January 15, 2003
  - January 22, 2003
- Other Meetings/Contacts/Letters
  - Coalition of Pinnacle Peak -January 14, 2003
  - Arizona Sign Association – February 4, 2003
  - Multifamily Housing Assoc. – February 5, 2003
  - Friends of the Scenic Corridor
  - Sign Industry Counsel

### **Recommendations**

- Planning Commission recommends approval with stipulations as referenced in Table A in Staff Report.
- Staff recommends approval without Planning Commission stipulations #2, #3 & #4.

### **Summary**

- No increases in total square footage of signage
- User friendly
- Allow DRB limited design discretion/flexibility
- Allow the ability to use medium sized freestanding signs
- Allow up to three (3) tenant names on freestanding signs
- Allow up to three (3) freestanding signs per street frontage for auto dealers
- Require a permit and decrease the size of temporary signs from 48 sq ft to 16 sq ft in the right-of-way
- *Staff recommends approval*

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Mayor Manross opened public testimony.

**Lynne Lagarde**, 3101 N. Central, Ste. 1000, Phoenix, spoke on behalf of AZ Sign Association. She thanked the city for being responsive to concerns of the business community. She stated her support of the ordinance recommendations by staff particularly as it relates to mid-size monument signs since the flexibility is important to the business community. She stated her belief that the proposed mid-size monument sign allowing up to three tenant names addresses the concerns of shopping centers. She also supported the idea of allowing tenant signage when the tenant of a building doesn't occupy an exterior wall. She felt by allowing flexibility for the DRB (Design Review Board), within the city's code, would be to encourage creativity in signage. She urged Council to extend the flexibility proposed for centers from a minimum of 100,000 sq. ft. to centers between 30,000 and 60,000 and 60,000 to 100,000 sq. ft. She also suggested that Council review the ordinance in another 12-18 months to address any issues that arise.

**Courtney Gilstrap**, 2302 N. Third Avenue, Phoenix, spoke as a representative of the AZ Multi-housing Association. She thanked staff for working with her company to work through the issues. She explained that signage is very important to their industry; thus, the company watches sign ordinances very closely within the valley.

**Katherine Kelekolio**, 2750 S. Priest Drive, Tempe, spoke as a representative of Safeway. She thanked staff and the Planning Commission for their support of businesses. She stressed that street signage is vital to their livelihood. She encouraged Council to support making the sign ordinance more user friendly, allowing additional design review flexibility, utilizing two medium size freestanding signs for multi-tenant complexes over 100,000 sq. ft. and allowing three tenant names per freestanding sign. She also stated her support for additional review of the ordinance in the future.

**Carl Schneider**, 7020 E. Canyon Wren Circle, stated his belief that campaign signs have gotten completely out of hand. He felt the signs are unsightly and are a waste of taxpayer money in the Clean Election Campaigns. He stated his opinion that the signs should be placed in designated areas and not allowed along scenic corridors. He suggested that 1) candidates should be required to periodically inspect their signs to repair or replace them as needed, 2) candidates should be required to post a bond before the elections that could be used to fund the costs of removing the signs after the election if the candidate doesn't, 3) political signs should be removed within 10 days of the election, and 4) candidates should be liable for a \$25.00 fine per day for any sign that is not removed within the specified timeframe. He felt that each campaign manager should keep a plot map indicating each location of the candidate's signs. He stated his opinion that there are many more areas to be considered in the sign ordinance, although political sign reform should be completed before the next election.

**Lou Jekel**, 8283 N. Hayden Rd., with the firm of Jekel and Howard spoke as a representative of Bill Heard Chevrolet. He noted that his client is building a new automobile facility (selling new and used cars) on McDowell Road just west of Pima. He stated that the project will be 11 acres of brand new investment in the city and will include 290,000 sq. ft. of building for displays, storage, and sales. He explained that he strongly supports the proposed changes to the sign ordinance. He urged staff to review the ordinance soon for some additional improvements. He pointed out that currently a 100,000 shopping center could have more signage than a 300,000 sq. ft. car dealership. He asked that certain provisions of the proposed ordinance be extended to car dealerships including allowing mid-size monument signs.

**Robert Aran**, 24350-26 N. Whispering Ridge Way, explained that he has been working with staff as a voluntary consultant. For the past 35 years, he has been the attorney for the CA Sign Association and the Sign Users Association in CA. He stated that he is in support of staff's recommendations tonight; however, urged a complete review on the entire ordinance as soon as possible. He questioned the constitutionality of some portions of the ordinance as it now stands. He suggested that Council consider creating a Sign Task Force to take some of the burden off of staff.

**Howard Myers**, 6631 E. Horned Owl Trail, acknowledged that there is favoritism in the ordinance; however, he stated his support of the proposed changes. He pointed out that the city still has two major problems with signage, which are political and off-site development signs. He stated his belief that the proposed changes will not adequately address these problems. He suggested that political signs be reduced in size to reduce clutter. He urged Council to review the entire ordinance in the near future since he felt it is entirely too complicated.

**Shelly McTee**, 11201 N. Tatum Blvd., Phoenix, spoke as a representative of DMB Associates, Inc. She expressed her support of staff's recommendation as presented to Council. She explained that she recognizes the important balance there is between commercial viability and aesthetics. She thanked the city for undertaking this effort and agreed with the recommendation that additional review of the ordinance should be undertaken in the near future.

**Tim Montgomery**, 34894 N. 92<sup>nd</sup> Place, strongly encouraged inclusion of stipulations 2 and 3. He stated his belief that stipulations 2 and 3 are the key to making the scenic corridors truly scenic.

Mayor Manross closed public testimony.

In response to questions from Councilman Littlefield, Mr. Ekblaw explained that if the recommended amendment to the ordinance were approved, one permit would be required for the entire group of political signs per candidate. He also confirmed that the revision would limit the duration the signs could be displayed to a total of 120-days rather than limiting them to 10 days after an election as the ordinance currently reads. Mr. Ekblaw assured Council that legal issues would be reviewed along with ways to simplify the ordinance without increasing the amount of signage.

Councilman Littlefield questioned why the city seems to have a difficult time enforcing city code as it relates to removal of political signs after an election. He also questioned enforcement of some questionable signs car dealerships use. Mr. Ekblaw noted that removal of signs is a cooperative effort. Statewide campaigns provide a challenge for the city since the candidates are more difficult to contact. Ron Keagy stated that the city could be more effective by working harder to obtain the various candidates cooperation in removing the signs. He noted that as far as the signs that car dealerships use, an inspector has been sent out on the weekends to try to curb the use of non-compliant signs. Typically, the dealers comply with code. He explained that the city is exploring the possibility of reallocating resources so a dedicated inspector could focus on enforcement of signage. This employee would work on weekends and evening hours to focus on the sign ordinance.

Councilwoman Lukas stated her opinion that flexibility is important for businesses in the city. She stated her support of allowing three tenant names on tower signs and the two for one concept. She also liked the idea regarding the auto dealerships as well. She questioned the constitutionality of allowing one set of rules for one type of business and not for another. Pat Boomsma explained that a lot of the issues in the sign ordinance are constitutional issues. She stressed that there are a lot of gray areas in constitutional law. Ms. Bronski confirmed that staff is confident that the ordinance is constitutional.

In response to additional questions from Councilwoman Lukas, Ms. Boomsma explained that the issue of posting a bond before posting political signs would be placing prior restraint on freedom of speech. She explained that this is why staff strongly recommends against requiring a bond to be posted. She noted that, although staff could revisit this option, there is an issue of whether or not it constitutes a prior restraint.

Mr. Ekblaw clarified for Councilwoman Lukas that the proposed flexibility that would be afforded to the DRB would be regarding design issues. There would be no increases in sq. footage or height additions, etc. It would simply be a matter of flexibility on where signs could be located on a building and to the design of the freestanding signs. If these revisions were approved, staff would look to review the existing guidelines with the board and update them as necessary.

Councilwoman Lukas questioned the constitutionality of the proposed revision to allow DRB flexibility. Attorney Boomsma agreed that the DRB could not have unfettered discretion and no discretion as to the content of the sign.

Councilman Ortega explained his opinion that the graphics included in the amendment help clarify the specifications and is a great step forward. He thanked the staff for their work on the amendment. He expressed concern over protecting special event signage. Mr. Ekblaw confirmed that the amendment formalizes the process for special event signage and makes the regulations clearer.

In response to additional questions from Councilman Ortega, Mr. Ekblaw noted that the Planning Commission was focusing on centers over 100,000 sq. ft. and was very supportive of the idea. He didn't believe alternatives were offered for centers with less than 100,000 sq. ft., although the idea would be consistent with the Planning Commission's discussions.

Councilman Ortega explained that he likes the concept of being able to split the large sign down into two separate signs. He stated his desire for Council to look at the idea in a modified manner to accommodate smaller centers as well.

Councilman Ortega noted that the most significant and positive change being considered tonight is the reduction in the maximum size allowed (16 sq. ft.) for political signs. He wondered if any statewide offices should be notified of the revision if it passes tonight.

Mayor Manross explained that, although these revisions are a step forward, it is clear that there is still a lot of work to be done on the sign ordinance. She noted that, although changes are needed, the current ordinance is still considered to be one of the best in the entire United States. She stated her belief that political signs should be banned from the city's right-of-ways; however, doesn't believe it is defensible to restrict them only along scenic corridors. She stated that she sympathizes with concerns regarding temporary signs; however, she felt the suggestion to require at least 100' in between the signs would be difficult to enforce.

Councilman Ecton explained that he hoped to see a better listing comparing Scottsdale's ordinance with other cities. He stated his belief that the city must improve its enforcement of violations. He felt the city must move ahead with some additional changes to the ordinance. He agreed with stipulation number 1 to allow two signs instead of one and Ms. Lagarde's recommendation to include smaller centers as well. He stated his support of the car dealership proposal, although he expressed some concern over the legality of the proposed revision. He agreed with the Mayor that the elimination of political signs along the scenic corridors would be a prejudicial action. He stated that he would not support allowing additional DRB flexibility in either increasing the size or placement of signs. He stated his preference as follows: 1) limiting the length of time a sign can be displayed from 120-days to 90-days, 2) setting the maximum size for a political sign to 3' x 3' instead of 4' x 4', 3) eliminating off-site real estate signs, 4) limiting on-site real estate signs to 16 sq. ft., 5) increasing violation fines progressively for each violation, 6) limiting temporary signs behind the scenic corridor to a maximum of 16' sq. ft., and 7) allowing a specific amount of time for compliance instead of grandfathering non-compliant signs.

In response to questions from Mayor Manross regarding grandfathering, Ms. Bronski explained that there is a state statute that prohibits the amortizing of signs. Ms. Boomsma confirmed that there is a state statute and several court cases that apply that concept directly to signs.

Councilman Silverman questioned if the city can legally limit the amount of time a political sign is displayed. Ms. Bronski confirmed that there are many court cases that prohibit the city from placing time limits on political signs, although the city has had some success in the past in encouraging people to comply with those types of time limits.

Councilman Silverman explained that he originally had some concerns over revising the ordinance since it has been so important to the character of the city. He noted, however, that the proposed changes do not impact the integrity of the current sign ordinance.

Vice Mayor O'Hearn stated that he is looking for a sense that the signage is inconspicuous to someone driving on the city's roadways; however, would properly direct people to their destination if they are

trying to locate a particular building or center. He explained that the other value the city is trying to achieve is one of consistency while encouraging creativity. He stated that he was comfortable with the option of allowing the DRB limited design discretion and flexibility until reviewing the graphics that were in staff's presentation. He explained that until there are perimeters to define the level of creativity, he would not support this option since he felt there should be some consistency in signage. He noted that he would like to see the issue deferred until the ordinance is reviewed further.

On the issue of allowing three tenant names on a sign, Vice Mayor O'Hearn stated that he would not support this added flexibility since it also would allow for inconsistent signs due to logos, lettering, colors, etc. Mr. Ekblaw explained that staff would have some concerns on limiting the size, logos, and colors on tenant signs due to trademarks.

Vice Mayor O'Hearn stated his support of a 90-day limitation rather than 120-day limitation for political signs. He stated his belief that the issues of enforcement of the ordinance are critical; thereby, there should be some consequence for repeated non-compliance. He questioned if what he called "the domino effect" could follow the revisions in the ordinance whereas a developer could update their sign after seeing a sign designed in accordance to the new regulations. Mr. Ekblaw confirmed that it is possible as long as they complied with the ordinance.

Ms. Dolan clarified that staff proposed the 120-day limit for temporary signs based upon aesthetics. The material that the majority of these types of signs are constructed from tends to last for approximately 120-days before becoming in a state of disrepair. Since the sign ordinance is based upon aesthetics, it was in that timeframe that the aesthetics of the signs are impacted.

Vice Mayor O'Hearn thanked Ms. Dolan for the clarification and stated that he is comfortable with the 120-day limit. He stated that he would support up to three tenant names per freestanding sign if there were consistency in color and design.

COUNCILMAN O'HEARN MOVED TO APPROVE ORDINANCE 3515 CHANGING THE MINIMUM SQ. FT. IN STIPULATION NO. 1 FROM 100,000 TO 60,000 TO ALLOW FLEXIBILITY FOR CENTERS AS IDENTIFIED IN THE ORDINANCE (TWO SIGNS INSTEAD OF ONE WITHOUT INCREASING THE TOTAL SQ. FOOTAGE OF THE SIGNAGE); EXCLUDING STIPULATIONS 2, 3, AND 4, EXCLUDING THE PROVISION TO ALLOW THE DRB THE DISCRETION/FLEXIBILITY ON FREESTANDING SIGNS AND, EXCLUDING THE ABILITY TO ALLOW UP TO THREE TENANT NAMES ON FREESTANDING SIGNS; AND ADOPT RESOLUTION 6319. COUNCILWOMAN LUKAS SECONDED THE MOTION.

Mayor Manross stated her support of allowing the DRB additional flexibility for monument signs. She explained her belief that the DRB should have the flexibility to respond to the different designs and locations on buildings.

Councilwoman Lukas agreed that a total re-write of the sign ordinance is needed. She explained that she sees the proposed revisions as a step forward. She noted that she is sympathetic with what the Planning Commission was trying to accomplish by recommending stipulations 2, 3 and 4, but could not support them since she didn't believe the ordinance would be as defensible if they were included. She stated support for allowing three tenant names on freestanding signs. She felt the city must make it a goal to improve the enforcement of the ordinance.

Mayor Manross requested that each Council member indicate if they would support eliminating all temporary signs from the city's right-of-way.

Councilman Ortega stressed his belief that allowing the DRB flexibility in locating signs on the exterior of a building is important to the welfare of some businesses. He stated that, currently, the ordinance is unfriendly and uncoordinated regarding this issue. He explained his opinion that the city should allow more flexibility for the DRB since better tools result in a better product.

Mayor Manross stressed that the city is trying to allow more flexibility while meeting the needs of the business community.

Vice Mayor O'Hearn took an informal poll of Council members to see if the majority of Council supported allowing the DRB more flexibility in design. Since this was not the case, Vice Mayor O'Hearn stated that he would not revise his motion to allow for further flexibility.

Councilman Silverman explained that he has no problem with allowing DRB more flexibility on the location of the signs on buildings. He expressed concern over the new shapes as indicated by the graphics in staff's presentation. Mr. Ekblaw explained that if it is Council's intent to defer for further review the design of the freestanding signs, staff could amend the language and still provide flexibility for locating signs on buildings.

Councilman Littlefield suggested that Council take votes of the original motion and amendments separately.

Councilman Ecton explained that he isn't satisfied with only the changes that have been mentioned. He once again stated his desire to see the elimination of off-site real estate signs in the right-of-ways, real estate signs to be restricted to a maximum of 16' sq. ft., temporary signs behind the scenic corridor to be reduced to 16' sq. ft. Councilman Ecton explained that due to the lack of public input on his suggestions, he would be willing to have them considered during the upcoming review of the ordinance.

COUNCILMAN ORTEGA MOVED TO AMEND THE MOTION TO ALLOW THE DESIGN REVIEW BOARD DISCRETION/FLEXIBILITY ON FREESTANDING SIGNS. MAYOR MANROSS SECONDED THE AMENDMENT WHICH WAS DENIED 2/5 (N.O., C.L., T.S., W.E., R.L.).

COUNCILWOMAN LUKAS MOVED TO AMEND TO ALLOW UP TO THREE TENANT NAMES ON MID-SIZE AND TOWER SIGNS. COUNCILMAN SILVERMAN SECONDED THE AMENDMENT WHICH CARRIED 5/2 (W.E., N.O.).

THE ORIGINAL MOTION CARRIED 7/0.

Mayor Manross requested that staff consider eliminating all temporary signs from the right-of-ways during review of the ordinance.

### **Public Comment**

**Nancy Cantor**, 2529 N. 86<sup>th</sup> Street, stated her belief that the city needs responsible development on the Los Arcos site.

**Robert Mayhew**, 7231 E. Latham, stated his belief that the current proposal for Los Arcos will not hurt any local businesses and is needed.



**Patti Badenock**, 5027 N. 71<sup>st</sup> Place, stated her support for a parking garage at First and Brown to help alleviate the shortage of parking in old town Scottsdale.

**Lyle Wurtz**, 6510 E. Palm Lane, questioned the terms of the Los Arcos project and the lack of an economic study to determine the impact of the project on the city. He cautioned citizens that wish to be appointed to the city's workgroups that their recommendations might not be considered.

**Michael Merrill**, 8713 E. Vernon Avenue, reminded Council to uphold their campaign promises when voting on the Los Arcos project.

**Darlene Petersen**, 7327 E. Wilshire Drive, felt the issue of Vice Mayor O'Hearn's alleged conflict of interest on the proposed Los Arcos project has been thoroughly explored with no conflict found. She stated support for the proposed Los Arcos project.

**Sharon Morgan**, 7304 E. McKinley Street, stated support of the proposed Los Arcos project. She stated her belief that the area's businesses need to be stimulated now.

**Tracey House**, 11439 N. 68<sup>th</sup> Place, expressed concern regarding the traffic calming devices that are currently being installed on Cholla. She stated her belief that the devices compromise safety and are not practical.

**Susan Wheeler**, 4616 E. Kalil Drive, stated her opposition of the work that is being done on Cholla due to safety issues.

### **City Manager's Report - None**

### **Mayor and Council Items**

Councilman Silverman stated, for the record, that he has not walked away from his political platform.

### **Adjournment**

With no further business to discuss, Mayor Manross adjourned the meeting at 8:22 P.M.

### **SUBMITTED BY:**

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**Ann Eyerly, Council Recorder**

### **REVIEWED BY:**

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**Sonia Robertson, City Clerk**

### **C E R T I F I C A T E**

I hereby certify that the foregoing Minutes are a true and correct copy of the Minutes of the Regular City Council Meeting of the City Council of Scottsdale, Arizona held on the 17th day of June 2003.

I further certify that the meeting was duly called and held, and that a quorum was present.

**DATED** this \_\_\_\_\_ day of June 2003.

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**SONIA ROBERTSON**  
**City Clerk**